



Santa Clara Valley Audubon Society
Founded 1926

April 18th, 2011

Via Email

Ms. Janis Moore, Senior Planner
Department of Planning, Building and Code Enforcement
City of San Jose

Re: City File No. PP10-178, APN 015-30-098, 097-14-090)

Dear Ms. Moore:

The Santa Clara Valley Audubon Society (SCVAS) has reviewed the Mitigated Negative Declaration (MND) for the installation of approximately 1000 LF of water main pipeline within and adjacent to the City of San Jose Water Pollution Control Plant. We find the document inadequate under CEQA and ask that the City not proceed with the project until the issues outlined below are addressed.

1. Purpose of the Project

The purpose of the Project is not clearly stated in the Public Notice and the MND. CEQA requires that a Project should have a defined purpose. At this point, the closest language to a project purpose is, "The project will complete a looped system and increase service reliability to the Alviso service area." (Initial Study, page 6)

We ask that the City elaborate on this sketchy project purpose statement. For example, are there problems with service reliability in the Alviso service area that this project would fix? Please state what specifically those problems are and how this project would fix those problems. Also, would this project allow for increased water service in the service area if increased development occurred in the area?

We believe that this project may have significant growth-inducing impacts, in that its construction would supply potable water to future development projects on the Water Pollution Control Plant (WPCP) buffer land; land that is not currently developed. By facilitating the development of commercial uses on the buffer lands, the project would have significant Land Use and Planning impacts and significant impacts on Utility and Service Systems.

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We ask that this project be evaluated as a part of the Environmental Impact Report for the Plant Master Plan, and not be segregated and put in place in a way that may facilitate the approval of the Recommended Alternative for the Plant Master Plan. We believe that the MND, as proposed, constitutes "piecemealing" of environmental review, a practice prohibited by CEQA.

2. Impacts to burrowing owls and their habitat

The Recommended Alternative for the Plant Master Plan designates the entire Project site "burrowing owl habitat". Thus, we believe this project would have significant Biological Impacts if any owl were displaced, relocated, or harassed. Again, we ask that the project impacts be evaluated within the framework of the Plant Master Plan for cumulative impacts and to coordinate the scope of this project with the overall Master Plan effort.

A 30-day survey for nesting burrowing owls is inadequate as mitigation, since burrowing owls may occupy a burrow and start nesting anytime. No more than 2 days should pass between a nesting owl survey and start of construction (David Johnston, Department of Fish and Game, personal Communication). We ask that that to minimize impacts on nesting burrowing owls, construction should not be allowed to occur during the typical avian nesting season (February 1-August 31). This project could simply be completed outside the nesting period window. We suggest the following mitigation measure: "no construction will occur during the typical burrowing owl nesting season (February 1 – August 31)."

Conclusion

Let me reiterate that, given the lack of information as to the project purpose in the MND and IS, it appears that this project undermines CEQA in the areas of a clearly defined project purpose, adequacy of impacts and mitigations, cumulative impacts, and growth inducement. We ask that the City not go forward with this project as proposed until these issues are addressed.

Thank you for the opportunity to comment on the proposed project and for granting SCVAS an extension (until April 18th) for commenting. We ask that you keep us informed on the planned project approval timeline and process, including but not limited to all hearings and decision-making schedules. Please keep SCVAS on the notification list for the proposed project site.

Sincerely,



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